

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEREMY PARR, RONALD CASTLE, and
JULIE VINES, individually and on behalf of
others similarly situated, and on behalf of the
general public,

Plaintiffs,

v.

STEVENS TRANSPORT, INC., STEVENS
TRANSPORT TL, INC., STEVENS
TRANSPORT CD, INC., and DOES 1–10,
inclusive,

Defendants.

No. C 19-02610-WHA

**ORDER TRANSFERRING
ACTION TO NORTHERN
DISTRICT OF TEXAS**

INTRODUCTION

In this putative class action, defendants move to dismiss for lack of personal jurisdiction or, in the alternative, to transfer venue. To the extent stated below, the motion to dismiss is **DENIED** and the motion to transfer is **GRANTED**.

STATEMENT

This is a putative wage-and-hour class action brought by three named plaintiffs, Jeremy Parr, Ronald Castle, and Julie Vines, on behalf of nationwide truck drivers who performed work in California, against defendants Stevens Transport, Inc., Stevens Transport CD, Inc., and Stevens Transport TL, Inc. (Amd. Compl. ¶ 1) (Dkt. No. 32). Defendants share staff and office

1 space and are referred to collectively as Stevens Transport (Adams Decl. ¶¶ 5, 10, 25) (Dkt.
2 No. 37-1).

3 Stevens Transport provides trucking services throughout the United States. Stevens
4 Transport, Inc. and Stevens Transport CD are motor carriers who hire and employ truck drivers
5 to haul and deliver freight, while Stevens Transport TL brokers contracts between motor carriers
6 and shippers. All defendants are incorporated in Texas and have their corporate headquarters in
7 Dallas (Adams Decl. ¶¶ 5–6, 10, 25).

8 Plaintiff Parr resides in Missouri. Plaintiff Castle resides in Arizona. Plaintiff Vines
9 resides in Texas. No plaintiff resides in California. Stevens Transport employed plaintiffs and
10 all putative class members as truck drivers to haul and deliver freight in the 48 contiguous states
11 (Amd. Compl. ¶¶ 11, 14, 17). On May 14, 2019, plaintiffs filed this putative class action in our
12 Northern District, alleging violations of various California wage and labor laws (Dkt. No. 1).
13 Two months later, defendants filed a motion to dismiss or, in the alternative, to transfer to
14 the United States District Court for the Northern District of Texas (Dkt. No. 37). Plaintiffs
15 responded by filing a first amended complaint. It outlines two alleged classes: (1) all current
16 and former truck drivers employed by defendants who drove within California for defendants
17 at any time during the applicable statutory period for the alleged claims; and (2) all current and
18 former truck drivers who performed services for defendants under an independent contractor
19 arrangement who drove within California for defendant at any time during the applicable
20 statutory period for the claims alleged in the complaint (Amd. Compl. ¶ 48).

21 Both sides thereafter stipulated to have defendants renew their motion in August, to give
22 defendants two weeks to file a motion to compel arbitration should this Court deny defendants'
23 motion, and to stay class and merits discovery pending resolution of defendants' jurisdiction,
24 venue, and arbitration motions (Dkt. Nos. 35–36). At a hearing held on September 12, 2019, it
25 was unclear whether defendant Stevens Transport TL had sufficient contacts with California to
26 sustain personal jurisdiction. Following the hearing, an order allowed plaintiffs to complete a
27 Rule 30(b)(6) deposition of Stevens Transport TL in connection with the personal jurisdiction
28 motion (Dkt. No. 43). Following the deposition, the parties stipulated to dismiss Stevens

1 Transport TL from the action (Dkt. No. 45). An order required defendants to file their motion to
2 compel arbitration by September 26 (Dkt. No. 43). This order follows.

3 ANALYSIS

4 1. PERSONAL JURISDICTION.

5 This district court has specific, personal jurisdiction over Stevens Transport, Inc., and
6 Stevens Transport CD. *First*, defendants established minimum contacts with California when
7 they adopted uniform employment and wage policies, then sent their drivers into California to
8 collect and deliver freight, thus purposefully directing their activities at California. *Yahoo!*
9 *Inc. v. La Ligue Contre Le Racisme*, 433 F.3d 1199, 1206 (9th Cir. 2006). *Second*, this
10 wage-and-hour claim unquestionably arises from those contacts as the plaintiffs are challenging
11 the application of defendants' wage-and-hour policies to their work performed in California.
12 *Third*, defendants have failed to show the exercise of jurisdiction would be so unreasonable as
13 to offend due process.

14 Stevens Transport relies heavily on *Gonzalez v. Crete Carrier Corp.*, another
15 wage-and-hour class action brought by truck drivers, to argue otherwise. 2019 WL 21782840
16 at *3 (W.D. Wash. May 20, 2019) (Judge John Coughenour). The instant order declines to
17 follow *Gonzalez*. Those drivers carried cargo for Crete in Washington and that should have
18 been enough to confer personal jurisdiction. Thus, this order finds there is specific, personal
19 jurisdiction over Stevens Transport, Inc. and Stevens Transport CD. Defendants' motion to
20 dismiss for lack of personal jurisdiction is therefore **DENIED**.

21 2. SECTION 1404(A).

22 Stevens Transport moves to transfer this action to the Northern District of Texas
23 pursuant to 28 U.S.C. § 1404(a). Because a large number of witnesses live and work in Dallas
24 and a greater proportion of the putative class members live in Texas than in California, this order
25 finds transfer is proper.

26 Section 1404(a) states in pertinent part: "[f]or the convenience of parties and witnesses,
27 in the interest of justice, a district court may transfer any civil action to any other district or
28 division where it might have been brought" The parties agree that venue would be proper

1 in either district. Thus, defendants' motion only presents the question of whether convenience
2 and fairness favor transfer.

3 Convenience and fairness factors must be considered on an individualized, case-by-case
4 basis. *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29 (1988). District courts consider both
5 private factors concerning the convenience of the parties and witnesses and public factors
6 concerning the interest of justice. *Decker Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834,
7 843 (9th Cir. 1986). On the whole, the balance of factors in this case favors transfer to the
8 Northern District of Texas.

9 **A. Convenience and Fairness.**

10 The private convenience and fairness factors include the convenience of parties and
11 witnesses, the ability of the court to compel witnesses, the ease of access to evidence, and the
12 plaintiff's choice of forum. *Decker Coal Co.*, 805 F.2d at 843. Here, the convenience of parties
13 and witnesses favors transfer and outweighs the minimal deference afforded to plaintiffs' choice
14 in forum.

15 The first factor, the convenience of parties and witnesses, favors transfer to Texas
16 because defendants, their witnesses, one named plaintiff, and a significant number of putative
17 class members all reside in Texas. Plaintiffs' contention that these details individually bear little
18 weight is unpersuasive.

19 Our defendants indisputably reside in Texas (Adams Decl. ¶¶ 10, 25). Additionally,
20 defendants have identified eight specific corporate executives who develop and oversee the
21 policies underlying plaintiffs' claims for relief, all of whom also reside in Texas (Adams Decl.
22 ¶¶ 2, 12–15, 25–26). Plaintiffs reply that defendants fail to classify those executives as
23 witnesses or describe the content and relevance of their potential testimony with requisite
24 specificity. Moreover, plaintiffs reply that the witnesses are employees of defendants and so
25 their convenience should be afforded less weight regardless of the content of their testimony
26 (Opp. at 16–17) (Dkt. No. 39). This order disagrees.

27 In its supporting declarations, Stevens Transport identifies the names, relevancy, and
28 location of eight persons with personal knowledge of Stevens Transport's policies affecting truck

1 drivers (Adams Decl. ¶¶ 2, 12–15, 25–26). True, Stevens Transport can direct its employees to
2 testify elsewhere and that reduces the weight given to their convenience, but that inconvenience
3 of doing so still matters.

4 Plaintiffs’ say they “intend to call numerous witnesses who likely reside in California”
5 but fail to name any particular California witness (Opp. at 15). Plaintiff Parr names one
6 employee of Stevens Transport that Parr trained with and whom Parr “believe[s] . . . currently
7 lives in Southern California” (Parr Decl. ¶ 11). Plaintiffs’ only other reference to anyone with
8 any connection to California is of receiving agents at drop yards and cashiers at fueling
9 establishments. This lack of specificity does little to show that witness convenience favors
10 California. None of the named plaintiffs can even “recall any of the names of these individuals”
11 despite having collectively made over 400 pick-ups and drop-offs in various California cities
12 (Parr Decl. ¶ 6; Parr Exh. A; Castle Decl. ¶ 9; Castle Exh. A; Vines Decl. ¶ 10; Vines Exh. A)
13 (Dkt. No. 39).

14 Texas appears to be more convenient for plaintiffs. One of the three named plaintiffs
15 lives in Texas and none of them live in California (Amd. Compl. ¶¶ 11, 14, 17). Texas is also
16 home to approximately one-third of the putative class, while California is home to less than one
17 percent. Although firm numbers do not exist at this early stage, Stevens Transport offers a
18 snapshot of the putative class: In 2018, of the 4,424 truck drivers Stevens Transport employed
19 or contracted with, only seventeen were California residents (.38%) while 1,526 were Texas
20 residents (34.49%) (Adams Decl. ¶ 22) (Gilbert Decl. ¶ 10) (Dkt. Nos. 37-1; 37-9).

21 Plaintiffs argue that the location of class members should be afforded little weight
22 because, prior to certification, the final makeup of the class is subject to considerable
23 speculation. Plaintiffs’ argument is bolstered by the fact that Stevens Transport only provides
24 employment statistics for a fraction of the applicable time period and those statistics likewise
25 fail to describe where 65% of the truck drivers reside. No doubt, there is some measure of truth
26 in this observation but the numbers are so lopsided that, even allowing for some error, the
27 trucking companies’ point deserves weight. These numbers show a significant portion of
28 potential class members reside in Texas, not California. Taken together with the location of

1 named plaintiffs and defense witnesses, the convenience of the parties and witnesses weighs in
2 favor of transfer to the Northern District of Texas.

3 As to ease of access to evidence, this factor weighs neither for nor against transfer.
4 Stevens Transport stores the financial and administrative records that are relevant to this action
5 electronically (Adams Decl. ¶ 2). So, there is little burden to transport any evidence to this
6 district.

7 The plaintiffs' choice of forum also holds little weight here. A defendant usually carries
8 a heavy burden to overcome the plaintiff's chosen forum, but where, as here, "an individual . . .
9 represents a class, the named plaintiff's choice of forum is given less weight." *Lou v. Belzberg*,
10 834 F.2d 730, 739 (9th Cir. 1987). In such circumstances, the amount of weight to be accorded
11 to plaintiffs' choice of forum depends on the extent of the parties' contacts with the chosen
12 venue, including those relating to plaintiffs' claim for relief. *Pac. Car & Foundry Co. v. Pence*,
13 403 F.2d 949, 954 (9th Cir. 1968).

14 Plaintiffs contend that Stevens Transport has extensive contacts with the forum state as
15 it regularly conducts business in California and it required plaintiffs and other drivers to perform
16 work within California. Moreover, plaintiffs' claims arise directly from these local contacts
17 and are based on the state law of the chosen district (Opp. at 14–15). These contacts are not
18 insubstantial. Instead, plaintiffs' own contacts with the forum are dubious. None of the named
19 plaintiffs reside in California, let alone in this district, and consequently none will be "deprived
20 of the presumed advantages of [their] home jurisdiction." *Koster v. Lumbermens Mut. Cas. Co.*,
21 330 U.S. 518, 524 (1947). Additionally, a substantial majority of the putative class members
22 reside outside of California while approximately one-third of them live in Texas. Taken with the
23 representative nature of this action, plaintiffs' initial choice of forum is entitled to only minimal
24 deference.

25 **B. Interest of Justice.**

26 A district court deciding a motion to transfer must also consider public-interest factors
27 such as relative degrees of court congestion, local interest in deciding localized controversies,
28

1 and familiarity with governing law. *Decker Coal Co.*, 805 F.2d at 843. Here, the public-interest
2 factors weigh only slightly against transfer.

3 To start, Stevens Transport seeks judicial notice of three exhibits under Rule 201(b)(2)
4 (Dkt. No. 38). Rule 201(b)(2) provides that the court may “judicially notice a fact that is not
5 subject to reasonable dispute because it . . . can be accurately and readily determined from
6 sources whose accuracy cannot be reasonably questioned.” Our court of appeals recently
7 held information made publicly available by government entities, that neither party
8 disputes the authenticity or accuracy of, as appropriate for judicial notice under Rule 201(b)(2).
9 *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998–99 (9th Cir. 2019). Here, the first exhibit
10 requested has been made publicly available by government entities through a website link.
11 Neither party disputes the authenticity of the website or the accuracy of the information
12 displayed by the document. Thus, the document, date, and information contained therein as
13 available to the recipient is appropriate for judicial notice. To this limited extent, the request for
14 judicial notice of the first exhibit is **GRANTED**. As this order does not rely on the other two
15 exhibits, the request to judicially notice those exhibits is **DENIED AS MOOT**.

16 The noticed exhibit shows that court congestion in the respective districts is similar.
17 During the twelve-month period ending in March 2019, the median time from filing to
18 disposition of civil actions was 7.9 months in this district and 7.0 months in the Northern District
19 of Texas. During the same period, this district had 725 total pending cases per active judge
20 while the Northern District of Texas had 1,327 total pending cases per active judge, indicating
21 slightly less congestion in this district. Federal Court Management Statistics (March 31, 2018),
22 www.uscourts.gov/report-name/federal-court-management-statistics. This factor therefore
23 neither weighs for nor against transfer.

24 Plaintiffs’ best point is that this case presents an issue of legitimate importance to
25 California, namely the extent to which out-of-state drivers can benefit from California’s labor
26 laws when they drive through our state. California has an interest in making sure its laws are
27 observed for work done in California, even if it is only a brief span in a long over-the-road haul.
28 And here, plaintiffs seek to represent two classes of drivers solely for their work done in

1 California. If this interest were enough to overcome the other factors, then every nationwide
2 trucking company would find themselves in all fifty states defending against similar lawsuits.
3 While this district is more familiar with California law, the excellent judges in Dallas can apply
4 California law, and can appreciate and vindicate California's interest in the matter. What's
5 more, if the case must resolve an issue of California law, the decision may be appealed to the
6 Fifth Circuit which may then certify the question to the California Supreme Court, just as our
7 court of appeals can. Cal. Rules of Court, Rule 8.548.


8 Viewing the totality of the factors, this order finds that this case belongs in the Northern
9 District of Texas. Although plaintiffs' choice in forum still carries some weight, and California
10 does have an interest in this matter, defendants have met their burden. Accordingly, defendants'
11 motion to transfer the action pursuant to 28 U.S.C. § 1404(a) is **GRANTED**.

12 CONCLUSION

13 The Clerk shall transfer this civil action to the United States District Court for the
14 Northern District of Texas and close the file. The parties' stipulation to change the hearing date
15 and continue the case management conference is **DENIED AS MOOT**. With respect to the motion
16 to compel arbitration, only partially briefed at this point, both sides shall please consult with the
17 new district judge in Dallas concerning its future.

18
19 **IT IS SO ORDERED.**

20
21 Dated: October 7, 2019.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE